

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TINA DEMARA,

Plaintiff,

Case No. 15-12634
Hon. Matthew F. Leitman

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION (ECF #12)
AND DISMISSING PLAINTIFF'S COMPLAINT (ECF #1)
FOR FAILURE TO PROSECUTE

On July 27, 2015, Plaintiff Tina Demara ("Demara") filed a Complaint seeking judicial review of Defendant Commissioner of Social Security's denial of her application for disability benefits. (*See* Compl., ECF #1.) At the same time, Demara filed an application with this Court requesting that she be allowed to proceed in this action without the prepayment of fees or costs (the "Application"). (*See* ECF #2.) On August 10, 2015, Magistrate Judge David Grand issued an order requiring Demara to show cause in writing why he should not recommend that the Application be denied due to Demara's failure to sufficiently demonstrate the required financial need (the "First Show Cause Order"). (*See* ECF #6.) Demara never responded to the First Show Cause Order. As a result, on November 30,

2015, Magistrate Judge Grand issued a Report and Recommendation (the “First R&R”) recommending that the Court deny the Application. (*See ECF #7.*) Demara never filed objections to the First R&R, and the Court adopted the First R&R on January 13, 2016. (*See ECF #8.*)

Despite the denial of her Application, Demara never paid the requiring filing fee for her Complaint. Magistrate Judge Grand then issued a second show cause order on February 17, 2016, requiring Demara to “show cause as to why the case should not be dismissed pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute” (the “Second Show Cause Order”). (ECF #10 at 2, Pg. ID 29.) Demara never responded to the Second Show Cause Order.

On March 31, 2016, Magistrate Judge Grand issued a second Report and Recommendation (the “Second R&R”) recommending that the Court dismiss Demara’s Complaint for failure to prosecute. (*See ECF #12.*) At the conclusion of the Second R&R, Magistrate Judge Grand informed Demara that she could file objections to the Second R&R within 14 days. (*See id.* at 4, Pg. ID 36.)

Demara has not filed any objections to the Second R&R. The failure to file objections to the R&R waives any further right to appeal. *See Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the Magistrate Judge’s R&R releases the Court from its duty to

independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985).

The Court has nevertheless reviewed the R&R and agrees with the findings and conclusions of Magistrate Judge Grand.

Accordingly, **IT IS HEREBY ORDERED** that Magistrate Judge Grand's March 31, 2016, Report and Recommendation (ECF #12) is **ADOPTED** as the Opinion of this Court. **IT IS FURTHER ORDERED**, for the reasons stated in the Second R&R, that Demara's Complaint (ECF #1) is **DISMISSED** for failure to prosecute.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: April 21, 2016

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on April 21, 2016, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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